



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Robert M. Hammond
R.M. Hammond Excavation
PO Box 666
Center Harbor, NH 03226

Re: 348 Castle Shore Road
Moultonborough, NH

**NOTICE OF PROPOSED
LICENSE ACTION
No. 04-008**

October 14, 2004

I. INTRODUCTION

This Notice of Proposed License Action is issued by the Department of Environmental Services, Water Division ("the Division") to Robert M. Hammond, pursuant to RSA 541-A:30 and RSA 485-A:36, I. The Division is proposing to suspend the septic installer's permit held by Robert M. Hammond, based on the violations alleged below. **This notice contains important procedural information. Please read the entire notice carefully.**

II. PARTIES

1. The Department of Environmental Services, Water Division is an administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH.
2. Robert M. Hammond is an individual d/b/a R.M. Hammond Excavation having a mailing address of PO Box 666, Center Harbor, NH 03226.

III. SUMMARY OF FACTS AND LAW SUPPORTING PROPOSED ACTION

1. RSA 485-A:29-44 authorizes the Department of Environmental Services ("DES") to regulate the subdivision of land and the construction, maintenance, and repair/replacement of individual sewage disposal systems ("septic systems"). Pursuant to rulemaking authority conferred thereby, the Commissioner of DES has adopted NH Administrative Rules Env-Ws 1000 to implement this program.
2. RSA 485-A:36, I requires any person engaged in the business of installing individual septic systems to obtain an installer's permit from DES.
3. Robert M. Hammond is a licensed septic system installer, #I-317. Mr. Hammond received his license on February 12, 1980, and has applied for and received a renewal of his license each year since then.

4. RSA 485-A:29, I requires that individual septic systems be installed in strict accordance with plans approved by DES.
5. RSA 485-A:36, I authorizes DES to suspend, revoke, or not renew an installer's permit for failure to install an individual septic system in accordance with approved plans or for failure of an installer to correct defective work.
6. On February 10, 2003, DES issued Construction Approval CA2003050374 to Ernest Peter for property located at 348 Castle Shore Road, Moultonborough, NH. The property is described in Town of Moultonborough Tax Maps as Map 88, Lot 65 ("the Property").
7. Subsequently, Mr. Peter engaged Mr. Hammond to install the approved septic system on the Property.
8. The system was installed on the Property, and an Operational Approval was issued by DES for the installation on June 4, 2003.
9. The Property is occupied during the summer, but only sporadically during the winter months.
10. During the winter of 2003-2004, Mr. Peter discovered that the system was not functioning properly. He discovered during an inspection of the system that parts of the system had frozen.
11. Subsequent inspection by Division personnel revealed a number of shortcomings with the installation of the system. Several of these likely resulted in the freezing of the system, and others threaten the long-term viability of the system
12. While Mr. Hammond has returned to the site on at least one occasion to effect some repairs to the system, most of the identified installation defects remain.
13. The designer of the system, Douglas Gosling, also inspected the system on two occasions. Mr. Gosling's inspections verified the problems identified by the Division's inspection.
14. Mr. Hammond has refused to return to the Property to correct the defects in the installation of the system, despite numerous letters and telephone conversations with Division personnel concerning these problems.

IV. VIOLATIONS ALLEGED

1. Robert M. Hammond has violated RSA 485-A:29, I by failing to install the septic system located on the Property in strict accordance with the approved plan.
2. Robert M. Hammond has violated RSA 485-A:36, I by failing to correct deficiencies in the installation of the system.

V. PROPOSED ACTION

1. Based on the violations identified in IV, 1 and IV, 2 above, DES proposes to suspend Installer's Permit #I-317 for a period of 2 years.

VI. HEARING, RESPONSE, PROPOSED SETTLEMENT


Robert M. Hammond has the right to a hearing to contest these allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:31, at which Mr. Hammond and any witnesses Mr. Hammond may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross examination. If Mr. Hammond wishes to have a hearing, one will be scheduled promptly.

RSA 541-A:31, III(e) provides that Mr. Hammond has the right to have an attorney present to represent him at his expense. If the Permit is an occupational license, under RSA 541-A:31, III(f) Mr. Hammond has the right to request DES to provide a certified shorthand court reporter at Mr. Hammond's expense. **Such request must be submitted in writing at least 10 days prior to the proceeding.**

Robert M. Hammond may waive his right to a hearing. If Mr. Hammond waives the hearing, DES is prepared to suspend Mr. Hammond's septic installer license for a period of 2 years. Mr. Hammond should notify DES of his decision by filling out and returning the enclosed form by October 18, 2004.

Anyone having questions regarding this matter should contact Richard J. de Seve, Compliance Supervisor, at 271-3442.

COPY


Harry C. Stewart, P.E., Director
DES Water Division

Enclosures

cc: Board of Selectmen, Town of Moultonborough
Gretchen R. Hamel, Legal Unit Administrator
Public Information Office, DES PIP Office
Richard J. de Seve, DES WD
William E. Evans, P.E., Administrator, DES/SSB
Ernest F. Peter

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**ROBERT M. HAMMOND IS REQUIRED BY LAW
TO RESPOND TO THIS NOTICE.
PLEASE RESPOND NO LATER THAN November 15, 2004**

APPEARANCE

_____ I desire a hearing in accordance with RSA 541-A:30 regarding the Permit.

Name: _____ Title: _____
(Please type or print legibly) (Please type or print legibly)

Signature Date: _____

WAIVER OF HEARING

_____ On behalf of Robert M. Hammond, I certify that I understand our right to a hearing regarding the revocation of the Permit and that I/we hereby waive(s) those rights.

Name: _____ Title: _____
(Please type or print legibly) (Please type or print legibly)

Signature Date: _____

**RETURN THIS PAGE ONLY TO:
Department of Environmental Services ~ Legal Unit
Attn: Michael Sclafani, Legal Assistant
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095**